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*Counsel for Lance Oil and Gas Company, Inc.*

**FILED**

**JUL 30 2009**

**Jim Ruby, Executive Secretary  
Environmental Quality Council**

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
OF THE STATE OF WYOMING**

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**IN THE MATTER OF THE APPEAL  
OF CLABAUGH RANCH, INC. FROM  
WYPDES PERMIT NO. WY0049697**

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**Docket No. 08-3802**

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**ERRATA REGARDING FAILURE TO ATTACH SIGNED AFFIDAVIT OF  
JASON THOMAS TO MEMORANDUM IN SUPPORT OF LANCE OIL AND GAS  
INC.'S MOTION FOR SUMMARY JUDGMENT**

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On July 17, 2009, the undersigned filed a Motion for Summary Judgment and a Memorandum in Support of Lance Oil and Gas Inc.'s Motion for Summary Judgment. The Memorandum in Support of Lance Oil and Gas Inc.'s Motion for Summary Judgment accidentally contained a copy of the **unsigned** Affidavit of Jason Thomas rather than the **signed** copy of the Affidavit which was duly signed and executed by Jason Thomas on July 16, 2009. The undersigned was unaware of this error until informed of the error by opposing counsel on July 30, 2009. Attached hereto as Exhibit 1 is the signed Affidavit of Jason Thomas which was inadvertently not attached to the

Memorandum in Support of Lance Oil and Gas Inc.'s Motion for Summary

Judgment filed on July 17, 2009.

Dated this 30<sup>th</sup> day of July, 2009.

SPEIGHT, McCUE & CRANK, P.C.

By: 

Patrick J. Crank, #5-2305

P.O. Box 1709

Cheyenne, WY 82003

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ATTORNEY FOR LANCE OIL AND GAS  
COMPANY, INC.

**CERTIFICATE OF SERVICE**

This is to certify that on the \_\_\_\_ day of July, 2009, a true and correct copy of the foregoing was served upon counsel as follows:

Director, Department of Environmental Quality [ X ] U.S. Mail  
122 West 25<sup>th</sup> Street [ ] Federal Express  
Herschler Building, Room 174 [ ] Fax  
Cheyenne, WY 82002 [ ] Hand Delivered  
[ ] E-Mail

John Burbridge [ X ] U.S. Mail  
Wyoming Attorney General's Office [ ] Federal Express  
123 Capitol Building [ ] Fax  
Cheyenne, WY 82002 [ ] Hand Delivered  
[ ] E-Mail

Tom C. Toner [ X ] U.S. Mail  
Yonkee & Toner, LLP [ ] Federal Express  
P.O. Box 6288 [ ] Fax  
Sheridan, WY 82801 [ ] Hand Delivered  
[ ] E-Mail



PJC:ch

# EXHIBIT 1

Patrick J. Crank  
Speight, McCue & Crank, P.C.  
2515 Warren Avenue, Suite 505  
Cheyenne, WY 82001  
Phone: (307) 634-2994  
Fax: (307) 635-7155

*Counsel for Lance Oil and Gas Company, Inc.*

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
OF THE STATE OF WYOMING

\_\_\_\_\_  
IN THE MATTER OF THE APPEAL )  
OF CLABAUGH RANCH, INC. FROM )  
WYPDES PERMIT NO. WY0049697 )  
\_\_\_\_\_ )

Docket No. 08-3802

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**AFFIDAVIT OF JASON THOMAS**

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COMES NOW your Affiant after having been first duly sworn and states as follows:

1. Your Affiant is employed by the Department of Environmental Quality ("DEQ"). Your Affiant has been employed by DEQ since 2001. Your Affiant is presently the Coal Bed Methane Permitting Manager.
2. During the course of your Affiant's employment with DEQ, your Affiant has reviewed hundreds of WYPDES permits issued by Wyoming DEQ. Your Affiant is well versed in the Wyoming Environmental Quality Act as it pertains to water quality and the Water Quality Rules and Regulations adopted by Wyoming DEQ. Your Affiant is responsible on a daily basis for issuing WYPDES permits within the parameters established by Wyoming statutes, Wyoming Water Quality Rules and Regulations, and federal statutes governing water quality.
3. As the Coal Bed Methane Permitting Manager, your Affiant is familiar with WYPDES Permit No. WY0049697 issued to Lance Oil and Gas on



or about March 24, 2008. A copy of this permit is attached to this Affidavit as **Exhibit 1**.

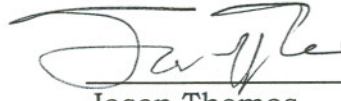
4. Your Affiant believes that the effluent limits set with regard to Outfall 13, which provide a maximum EC of 2560 and an SAR limit derived from the 1999 Hansen equation are protective of downstream uses and will not cause a measurable decrease in livestock or crop production. Your Affiant does not believe that the permit needs to reflect the revised Hansen formula recognized in the 2006 version of the Hansen Manual. The approximately ten percent (10%) difference in allowable SAR discharge pursuant to the 2006 Hansen formula will not, in your Affiant's opinion, cause a measurable decrease in crop or livestock production or harm downstream land.

5. Your Affiant is also aware, based on your Affiant's education, experience, and training, as well as your Affiant's examination of water quality testing of CBM water in northeast Wyoming, that end-of-pipe effluent limits are frequently not consistent with EC and SAR measurements made downstream from a particular outfall. Water chemistry frequently changes as water travels from an outfall to an irrigation monitoring point, irrigation compliance point, and to where water is actually applied via artificial or non-artificial irrigation practices.

6. Based on your Affiant's education, training, and experience, the WYPDES Permit issued to Lance Oil & Gas on March 24, 2008, which is attached hereto as **Exhibit 1**, fully complies with the Wyoming Environmental Quality Act, Water Quality Rules and Regulations, and the Section 20 Agricultural Use Protection Policy currently being considered as a proposed rule by the Wyoming Environmental Quality Council. While the DEQ may modify the Permit in the future if Lance Oil & Gas seeks renewal of the Permit in the future to reflect the 2006 Hansen formula for calculation of SAR based on a given EC effluent limit, your Affiant does not believe that the SAR effluent limit established pursuant to the 1999 Hansen formula in this permit is posing any immediate risk to any irrigated lands that may exist downstream of Outfall 13 of said permit.

FURTHER YOUR AFFIANT SAITH NOT.

Dated this 15<sup>th</sup> day of July, 2009.



Jason Thomas

STATE OF WYOMING )  
COUNTY OF Laramie ) ss

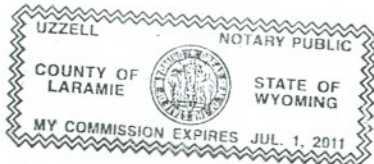
I, Jason Thomas, being duly sworn, depose and say as follows: I have read the foregoing **Affidavit of Jason Thomas**, know the contents thereof, and that the facts set forth therein are true to the best of my knowledge, belief and information.



Jason Thomas

SUBSCRIBED and sworn to before me, a Notary Public, by Jason Thomas, on this 16<sup>th</sup> day of July, 2009.

Witness my hand and official seal.



My Commission Expires:

July 1, 2011

  
Notary Public

PJC:pw